

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.19258 of 2012
Date of Decision:- 21.03.2016

Rattan Singh

....Petitioner

Versus

Managing Director, UHBVNL and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Raj Kapoor Malik, Advocate,
for the petitioner.**

**Mr. Pardeep Singh Poonia, Advocate
for the respondents.**

RITU BAHRI, J. (Oral)

Petitioner is seeking direction to the respondents to restore the office order dated 06.08.2007 (Annexure P-2), vide which he has been granted 1st and 2nd ACP w.e.f. 01.01.1996 and 01.06.2006 respectively.

Initially, the petitioner was recruited as work charge store mate on 13.10.1977 in the Haryana State Electricity Board. He was promoted as R.S.M. and his services were regularized w.e.f. 01.02.1982. Thereafter, he was promoted as ALM on 17.02.1986 and his cadre was changed from Assistant Lineman to Meter Reader on 06.02.1992 and till date he is working on the post of Meter Reader as per letter dated 04.01.2012 (Annexure P-1). Even though the cadre of the petitioner was changed on

06.02.1992 but both the posts i.e. ALM and Meter Reader are equal in respect of pay scales. Petitioner has been working on the post of ALM w.e.f. 17.02.1986 and is entitled for 1st and 2nd ACP w.e.f. 01.06.1996 and 01.06.2006 respectively. This benefit was granted to him, vide office order dated 06.08.2007 (Annexure P-2). Thereafter, the department reviewed the said order dated 06.08.2007 (Annexure P-2) and vide impugned order dated 08.08.2012 (Annexure P-5), the respondents' department has granted the 1st ACP scale w.e.f. 01.01.2006 and 2nd ACP scale w.e.f. 01.03.2006 to the petitioner in terms of Para 7(4) of Nigam Office order dated 27.02.2009.

The stand taken by the respondents in the written statement is that the petitioner had been granted 1st ACP and 2nd ACP w.e.f. 01.06.1996 and 01.06.2006 by stepping up pay scale at par with his junior Sh. Vinod Kumar ALM, in terms of Nigam order dated 27.02.1998 and 20.02.2004. The pay of the petitioner has now been re-fixed as per Haryana Government instruction dated 23.06.2009 as adopted by The Managing Director, UHBVN, vide his memo dated 13.01.2010 (Annexure R-3/1).

The Haryana Government instructions dated 23.06.2009, which was adopted by Nigam on 13.01.2010, came up for consideration before this Court in case **CWP No.25750 of 2013** titled **Rajbir Singh Vs. Uttar Haryana Bijli Vitran Nigam Limited and others**, decided on 08.01.2015 whereby it was held that while issuing these instructions, the earlier instructions issued by the State had not been taken into consideration and the benefit granted to the petitioner as per directions issued by the Hon'ble Supreme Court in **Civil Appeal No.3250 of 2006** titled **Commissioner and Secretary to Government and others Vs. Ram Sarup Ganda and**

others, decided on 02.08.2006.

The above said instructions had been issued by the department on account of misinterpretation of the judgment of Division Bench of this Court in **CWP No.4563 of 2007** titled **Prem chand Manchanda and others** Vs. **State of Haryana and another**, decided on 09.01.2009 whereby it was held that if higher pay is granted to the petitioner on account of application of ACP rules, then there was no question of withdrawal of the benefit and not recovery could be made. The writ petition was allowed and the order withdrawing the pay scale granted to him at par with his junior was set aside.

This Court in the case **CWP No.6741 of 2013** titled **Rajender Singh** Vs. **Uttar Haryana Bijli Vitran Nigam and another**, decided on 29.01.2016 has followed the judgment of this Court passed in **Rajbir Singh's case (supra)**. In that case, the petitioner was appointed contingent chowkidar on 05.11.1979 and his services were regularized w.e.f. 01.01.1984. Thereafter, he was promoted as Meter Reader in 1986. Consequently, he was granted the benefit of stepping up of pay scale at par with his junior.

In the facts of the present case, the petitioner, vide order dated 06.08.2007 (Annexure P-2), was rightly granted the 1st ACP scales w.e.f. 01.06.1996 and 2nd ACP scales w.e.f. 01.06.2006, as he had been promoted as ALM on 17.02.1986 and had not got any upgradation of pay of functional promotion in the hierarchy. Vide impugned order dated 08.08.2012 (Annexure P-5), the benefit has been withdrawn and he has been granted 1st ACP scale w.e.f. 01.01.2006 and 2nd ACP scale w.e.f.

01.03.2006 in terms of Para 7(4) of Nigam office order dated 27.02.2009. The stand taken by the respondent is that as per instruction dated 23.06.2009 as adopted by the Nigam, vide his memo dated 13.01.2010 (Annexure R-3/1), the impugned order is not liable to be set aside.

The above said instructions had already been considered by a Co-ordinate of this Court in the case of **Rajbir Singh's case (supra)** where it has been held that the above said instructions had been issued on account of mis-interpretation of judgment passed by Hon'ble the Supreme Court in **Ram Sarup Ganda's case (supra)** and judgment of Division Bench of this Court passed in **Prem Chand Manchanda's case (supra)**.

Since, the petitioner in the present petition after being promoted as ALM in the year 1986 till the date of his retirement did not get any functional promotion in the hierarchy and not got any financial upgradation, so, he was entitled to the benefit of ACP scales w.e.f. 01.06.1996 and 01.06.2006. Consequently, the present petition is allowed and the office order dated 06.08.2007 (Annexure P-2) is restored with all consequential benefits.

March 21, 2016
naresh.k

(**RITU BAHRI**)
JUDGE